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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,112	10/29/2003	Martha A. Dempsey	13277-5	6920
33772	7590	08/10/2005	EXAMINER	
MCDONALD HOPKINS CO., LPA 2100 BANK ONE CENTER 600 SUPERIOR AVENUE, E. CLEVELAND, OH 44114-2653			DAVIS, CASSANDRA HOPE	
		ART UNIT		PAPER NUMBER
		3611		

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

U7

Office Action Summary	Application No.	Applicant(s)
	10/696,112	DEMPSEY, MARTHA A.
	Examiner	Art Unit
	Cassandra Davis	3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 May 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7, 9, 10, 12, 14-17, 19-24 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1, 19, 20 and 22-24 is/are rejected.
 7) Claim(s) 2-6, 9, 10, 12, 14-17, 21 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____ .
- 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

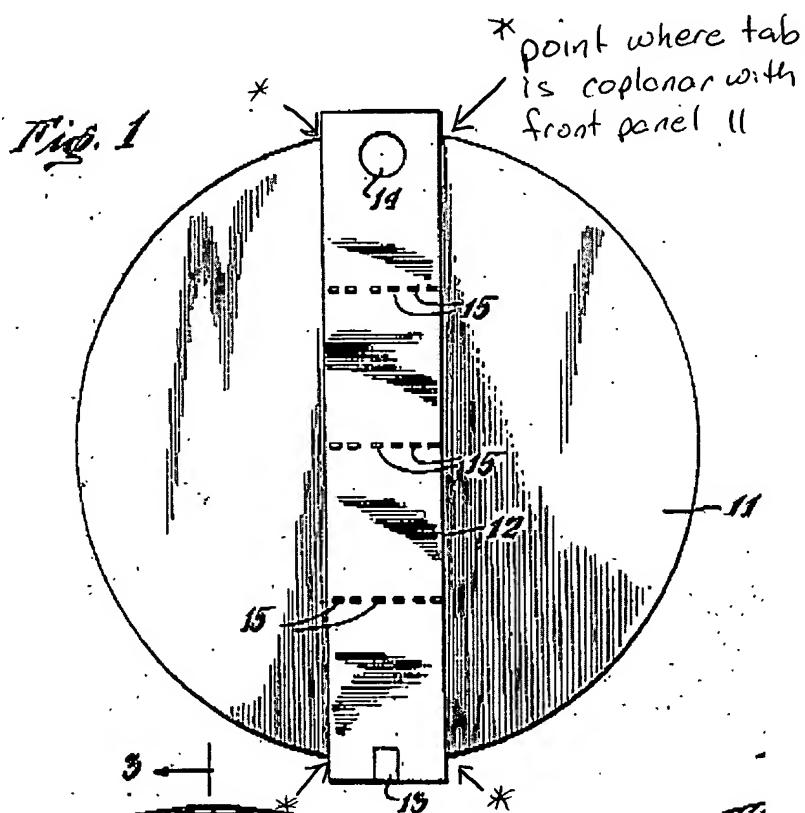
2. Claims 1, 7, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Pente, U. S. Patent 1,231,059. Pente teaches a device comprising a front panel 5, a back panel 4 connected to the front panel at fold line 3. The back panels has a first pair of tabs 8 and a second pair of tabs 9, wherein the edges of the tabs 8 align with edges of the tab 11 of the front panel. See figure 3.

3. Claims 20, 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Schroeder, U. S. Patent 2,632,268.

4. Schroeder teaches tire insert holder comprising a circular front panel 11, 32, a back panel 12, 34 connected to the front panel, wherein the back panel has tabs 22, 35 and 23, 36 adapted to inserted into the tire. The

opposite sides of the tabs 22, 35 and 23, 36 having a portion that is coplanar with the front panel 11 as indicated by arrows below.

5. With respect to claims 23 and 24, Schroeder teaches the front panel can be made from rigid material such as paper stock or "patent" mounting board and the rear panel can be made from a material having a resiliency such as Kraft or jute mounting board.



Allowable Subject Matter

6. Claims 2-6, 9, 10, 12, 14-17 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten

in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed May 23, 2005 have been fully considered but they are not persuasive.
8. With respect to the rejection of claims 1, 7, and 19 as being anticipated by Pente, the applicant argues that Pente does not disclose the tabs of the back panel section are engageable with the tire to hold the front panel in a predetermined position. The applicant points out that Pente is a toy, wherein the tabs 8 and 9 of the back panel of the toy are incapable of engaging a tire so as to hold the front panel 5 in a predetermined position.
9. The examiner contends that applicant does not positively claim the insert in combination with the tire. The examiner contends that tabs 8 and 11 of Pente can engage a tire.
10. The rejection is maintained.
11. With respect to the rejection of claims 20, 22-24 as being anticipated by Schroeder, the applicant argues that Schroeder does not disclose or teach the tabs having at least one edge wherein the edges of at least two of said tabs are coplanar with the edge of the front panel. The examiner

contends that Schroeder teaches that tabs 35 and 36 or end of the strip having portions which are coplanar with the 11, 32 as indicated by the arrows in the copy of figure 1 above. In review figure 6 of the applicant's drawing only a portion of the tabs 30, 30, 50 and 60 are coplanar with the front portion 12. The entire edge of the tabs are not coplanar with the front portion. With this in mind, the examiner contends that the portions pointed out above meets the claimed limitation as understood by the applicant's specification, page 8, lines 2-11 and figure 6.

12. The rejection is maintained.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the

mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Cassandra Davis
Cassandra Davis
Primary Examiner
Art Unit 3611

CD
August 7, 2005